

AMENDED IN SENATE JUNE 29, 1999
AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1152

Introduced by Assembly Member Ackerman

February 25, 1999

An act to amend Section 77009 of the Government Code, and to amend Section 2942 of the Probate Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1152, as amended, Ackerman. Courts: funding: public guardians.

(1) Existing law provides state funding for trial courts under the Brown-Presley Trial Court Funding Act, as specified, and requires each board of supervisors to establish in the county treasury a Trial Court Operations Fund, to be used for specified purposes.

This bill would authorize a court to deposit moneys received under the Family Law Facilitator Act to be deposited in the Trial Court Operations Fund, in which case a special account shall be established for this purpose. The bill would impose a state-mandated local program by expanding the duties of the county treasurer under an existing program.

(2) Existing law requires a probate court to determine the just and reasonable compensation of the public guardian, the attorney of the public guardian and the processing and filing

services of the county clerk or clerk of the superior court, to be paid from the estate of a ward or conservatee.

This bill would require the court, in making this determination, to consider specified factors, but would not require a public guardian to base a request for compensation upon an hourly rate.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 77009 of the Government Code
2 is amended to read:
3 77009. (a) For the purposes of funding trial court
4 operations, each board of supervisors shall establish in the
5 county treasury a Trial Court Operations Fund, which
6 will operate as an agency fund. All funds appropriated in
7 the Budget Act and allocated and reallocated to each
8 court in the county by the Judicial Council shall be
9 deposited into the fund. Accounts shall be established in
10 the Trial Court Operations Fund for each trial court in
11 the county, except that one account may be established
12 for courts which have a unified budget. In a county where
13 court budgets include appropriations for expenditures
14 administered on a countywide basis, including, but not
15 limited to, court security, centralized data-processing and
16 planning and research services, an account for each



1 centralized service shall be established and funded from
2 those appropriations.

3 (b) The moneys of the Trial Court Operations Fund
4 arising from deposits of funds appropriated in the Budget
5 Act and allocated or reallocated to each court in the
6 county by the Judicial Council shall be payable only for
7 the purposes set forth in Sections 77003 and 77006.5, and
8 for services purchased by the court pursuant to
9 subdivisions (b) and (c) of Section 77212. The presiding
10 judge of each court in a county, or his or her designee,
11 shall authorize and direct expenditures from the fund and
12 the county auditor-controller shall make payments from
13 the funds as directed. Approval of the board of
14 supervisors is not required for expenditure from this
15 fund.

16 (c) Moneys provided to the court to fulfill the
17 requirements of Division 14 (commencing with Section
18 10000) of the Family Code may be deposited in the Trial
19 Court Operations Fund, in which case a special account
20 shall be established in the fund for this purpose.

21 (d) Interest received by a county which is attributable
22 to investment of money required by this section to be
23 deposited in its Trial Court Operations Fund shall be
24 deposited in the fund and shall be used for trial court
25 operations purposes.

26 (e) In no event shall interest be charged to the Trial
27 Court Operations Fund, except as provided in Section
28 77009.1.

29 (f) Reasonable administrative expenses incurred by
30 the county associated with the operation of this fund shall
31 be charged to each court on a pro rata basis in proportion
32 to the total amount allocated to each court in this fund.

33 (g) A county, or city and county, may bill trial courts
34 within its jurisdiction for costs for services provided by
35 the county, or city and county, as described in Sections
36 77003 and 77212, including indirect costs as described in
37 paragraph (7) of subdivision (a) of Section 77003 and
38 Section 77212. The costs billed by the county, or the city
39 and the county, pursuant to this subdivision shall not
40 exceed the costs incurred by the county, or the city and

1 the county, of providing similar services to county
2 departments or special districts.

3 (h) Pursuant to Section 77206, the Controller, at the
4 request of the Legislature or the Judicial Council, may
5 perform financial and fiscal compliance audits of this
6 fund.

7 (i) The Judicial Council with the concurrence of the
8 Department of Finance and the Controller's office shall
9 establish procedures to implement the provisions of this
10 section and to provide for payment of trial court
11 operations expenses, as described in Sections 77003 and
12 77006.5, incurred on July 1, 1997, and thereafter.

13 (j) The Judicial Council shall study alternative
14 methods for the establishment and management of the
15 Trial Court Operations Fund as provided in this section,
16 and shall report its findings and recommendations to the
17 Legislature not later than November 1, 1998.

18 SEC. 2. Section 2942 of the Probate Code is amended
19 to read:

20 2942. The public guardian shall be paid from the
21 estate of the ward or conservatee for all of the following:

22 (a) Reasonable expenses incurred in the execution of
23 the guardianship or conservatorship.

24 (b) Compensation for services of the public guardian
25 and the attorney of the public guardian, and for the filing
26 and processing services of the county clerk or the clerk of
27 the superior court, in the amount the court determines is
28 just and reasonable. In determining what constitutes just
29 and reasonable compensation, the court shall, among
30 other factors, take into consideration the actual costs of
31 the services provided, the amount of the estate involved,
32 *the special value of services provided in relation to the*
33 *estate*, and whether the compensation requested might
34 impose an economic hardship on the estate. Nothing in
35 this section shall require a public guardian to base a
36 request for compensation upon an hourly rate of service.

37 (c) An annual bond fee in the amount of twenty-five
38 dollars (\$25) plus one-fourth of 1 percent of the amount
39 of an estate greater than ten thousand dollars (\$10,000).
40 The amount charged shall be deposited in the county

1 treasury. This subdivision does not apply if the ward or
2 conservatee is eligible for Social Security Supplemental
3 Income benefits.

4 SEC. 3. Notwithstanding Section 17610 of the
5 Government Code, if the Commission on State Mandates
6 determines that this act contains costs mandated by the
7 state, reimbursement to local agencies and school
8 districts for those costs shall be made pursuant to Part 7
9 (commencing with Section 17500) of Division 4 of Title
10 2 of the Government Code. If the statewide cost of the
11 claim for reimbursement does not exceed one million
12 dollars (\$1,000,000), reimbursement shall be made from
13 the State Mandates Claims Fund.

